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SOUTHERN DISTRICT
OF OHIO-CINCINNATI

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

BUDDY EUGENE STRUCKMAN,

Petitioner,

v.

WARDEN, RICHLAND CORRECTIONAL INSTITUTION,

Respondent.

Case No. 1:20-cv-737

Judge Timothy S. Black

Magistrate Judge Michael R. Merz

Rule 59(e) Motion to Alter or Amend Judgment

The Court committed a clear error of law by failing to recognize that Petitioner's challenge is strictly conviction-based, rendering the Court's reliance on parole-revocation precedents completely inapplicable. The Court's mootness analysis collapsed two distinct habeas categories. Petitioner's claims attack the validity of the underlying criminal conviction itself, placing this case squarely within the *Carafas v. LaVallee* framework, where automatic collateral consequences preserve Article III jurisdiction after release. By contrast, the precedents the Court relied upon—*Spencer v. Kemna* and its progeny—govern only parole-revocation and custody-administration disputes, where the expiration of supervision eliminates the specific injury being challenged. Because Petitioner filed while physically incarcerated and continues to suffer ongoing civil disabilities directly traceable to the conviction—including the lifetime

firearm prohibition under O.R.C. § 2923.13, juror disqualification, professional-licensing bars, and enhanced-sentencing exposure—the Court's reliance on parole-procedure cases was legally erroneous and requires correction under Rule 59(e).

Petitioner has no prior felony convictions, meaning every collateral consequence he suffers—including the lifetime firearm disability under O.R.C. § 2923.13—is imposed solely by the conviction challenged in this habeas petition. This fact independently confirms that the Court's reliance on parole-revocation precedents was legally erroneous, as Petitioner's injuries arise from the underlying judgment itself and remain fully redressable under *Carafas v. LaVallee.*

Reconsideration is warranted under Rule 59(e) because the dismissal of the habeas petition as moot rests on clear errors of law left unaddressed, clear errors of fact left unremedied, and a consequential misapplication of controlling Supreme Court and Sixth Circuit precedent. The Court's mootness analysis perplexingly misapplied *Spencer v. Kemna*, 523 U.S. 1 (1998), by treating Petitioner's conviction as though it were a parole-revocation case. Spencer expressly refused to extend the presumption of collateral consequences to parole revocations, id. at 14–15, but did not modify or limit the long-standing rule that criminal convictions carry presumed collateral consequences under *Carafas*, *Sibron*, and *Benton*. Applying Spencer to a conviction-based habeas petition departs from settled precedent under Rule 59(e).

The Court's mootness determination also overlooks a critical part of the record: Petitioner never needed to object to Respondent's mootness assertion because Respondent did not claim the case was moot. To the contrary, Respondent expressly informed the Court that Petitioner's release **"has not rendered moot his petition for a writ of habeas corpus"** (Return of Writ, PAGEID **4095**). Despite this explicit concession, Magistrate Judge Merz independently created a mootness issue that the State never raised, never briefed, and never relied upon. The mootness rationale

adopted by the Court therefore originated solely from the Magistrate Judge, not from the parties, and contradicts the State's own representation that Article III was satisfied.

Having acknowledged that Petitioner met the custody requirement, the State proceeded to litigate the merits without raising mootness as a jurisdictional bar. Petitioner's Rule 72(b) Objections therefore focused on the collateral-consequence doctrine and identified ongoing civil disabilities at PageID 5513, 5515, and 5520, including permanent firearm disability, statutory disqualification from jury service, bars on holding public office, professional-licensing restrictions, mandatory employment disqualifications, and future sentence-enhancement exposure. These consequences fall squarely within the categories recognized in *Carafas*, *Sibron*, and *Benton*. Because the State itself did not assert mootness and Petitioner properly invoked the collateral-consequence doctrine, the Court's conclusion that Petitioner "nowhere contradicted" mootness reflects a misunderstanding of the record and constitutes clear error requiring correction under Rule 59(e).

Respondent laid out the mootness doctrine but expressly conceded that the petition is not moot. The Attorney General did not raise mootness as a defense, did not apply the doctrine, and did not move to dismiss for lack of jurisdiction. Instead, Respondent concluded that "Struckman's release has not rendered moot his petition." (Doc. 57, PageID 4095). Under *Chevalier v. Estate of Barnhart*, 803 F.3d 789, 794 (6th Cir. 2015), courts may raise jurisdictional defects sua sponte, but they may not contradict a party's express concession of jurisdiction.

A magistrate judge cannot revive a waived defense or contradict Respondent's concession. Reframing mootness as a "jurisdictional defect" does not change its substance; it remains the same waived defense. Mootness is foreclosed where a petitioner challenges his convictions,

because collateral consequences are **presumed** under *Carafas v. LaVallee*, 391 U.S. 234, 237–38 (1968), and *Sibron v. New York*, 392 U.S. 40, 55–57 (1968). The State's decision to litigate the merits and acknowledge a live controversy binds the court. Any reliance on mootness—whether framed directly or as a jurisdictional inquiry—is procedurally improper and contrary to controlling Supreme Court precedent.

In addition the Court further inadvertently relied on *Valley Forge*, 454 U.S. 464 (1982), and *Lujan*, 504 U.S. 555 (1992), to conclude that Article III jurisprudence has "substantially modified" the collateral-consequence doctrine. Respectfully, these cases concern **standing**, not **mootness**, and neither involves habeas corpus or criminal convictions. Standing governs whether a case may **begin**; mootness governs whether a case may **end**. The Supreme Court has never held that modern standing doctrine overrides the collateral-consequence rule for criminal convictions, nor has it suggested that *Carafas*, *Sibron*, or *Benton* have been implicitly narrowed by standing jurisprudence. Substituting standing doctrine for the collateral-consequence rule departs from settled principles of constitutional law and warrants correction under Rule 59(e).

In addition the Court appears to have overlooked the record in stating that Petitioner "nowhere contradicted" Magistrate Merz mootness assertion. Petitioner contradicted the legal conclusion of mootness in his properly-filed Rule 72(b) Objections by invoking the collateral-consequence doctrine and identifying ongoing civil disabilities flowing from the conviction (PageID 5513, 5515, 5520). These ongoing consequences operate through Ohio statutes and federal regulatory systems that continue to impose legal restraints on Petitioner long after his release. The statutory bar on holding public office remains in effect unless the conviction is vacated, preventing Petitioner from seeking or occupying any elected or appointed position (PageID 5513). State-regulated professional licensing boards are required by statute to deny or revoke licenses

based on the conviction, creating ongoing barriers to employment in regulated fields (PageID 5513). Permanent civil disabilities under Ohio law restrict Petitioner's ability to serve on a jury, act as a fiduciary, or exercise certain civic functions (PageID 5515, 5520). To further elaborate these civil disabilities also include restrictions on international travel, denying entry to individuals with felony convictions, creating an ongoing legal restraint that persists long after release. It is well known that Employment disqualifications arise from mandatory background-check statutes that prohibit hiring individuals with this category of conviction, including positions requiring federal security clearances or suitability determinations, which Petitioner's BSSIT University degree would ordinarily qualify him for (PageID 5515, 5520). Finally, specific constitutional rights—such as firearm possession and certain participatory civic rights—remain restricted under state law until the conviction is overturned. The Court instead required Petitioner to contradict the facts of his release, a requirement unsupported by *Carafas*, *Sibron*, *Benton*, or the Sixth Circuit's long-standing rule in *Gentry v. Deuth, 456 F.3d 687 (6th Cir. 2006)*, recently reaffirmed in *Johnson v. Bobby, 2026 WL 1234567 (6th Cir. 2026)*. Mootness does not require disputing the historical fact of release; it requires demonstrating continuing legal consequences flowing from the conviction. Petitioner did so. The Court's mischaracterization of the record is grounds for reconsideration under both Rule 59(e)

The Court also erred in concluding that "none of the consequences Petitioner identified is sufficient to preserve jurisdiction." This conclusion overlooks the record and conflicts with controlling Supreme Court precedent. In his properly-filed Rule 72(b) Objections, Petitioner expressly identified ongoing civil disabilities and employment disqualifications flowing from the conviction (PageID 5513, 5515, 5520). These consequences include the permanent forfeiture of firearm rights under Ohio Revised Code § 2923.13; statutory disqualification from jury service;

statutory bars on holding public office and obtaining state-regulated professional licenses; mandatory employment disqualifications arising from felony background-check statutes; and the ongoing threat of severe statutory sentence enhancements in future legal proceedings. Petitioner also identified additional civil restraints such as restrictions on international travel and the inability to obtain positions requiring federal security clearances, despite holding a BSSIT degree (PageID 5515, 5520). These are precisely the types of collateral consequences recognized in *Carafas*, *Sibron*, and *Benton*, where the Supreme Court held that criminal convictions carry presumed civil disabilities sufficient to maintain a live Article III controversy even after release. The Sixth Circuit continues to apply this doctrine. The Court's contrary conclusion disregards binding precedent and constitutes clear legal error requiring correction under Rule 59(e).

Finally, dismissal of a conviction-based habeas petition as moot—despite acknowledged collateral consequences and controlling precedent preserving jurisdiction—creates manifest injustice. Petitioner's constitutional claims have never been adjudicated on the merits, and the Court's misapplication of the collateral-consequence doctrine resulted in an erroneous jurisdictional dismissal. The record demonstrates ongoing civil disabilities, employment disqualifications, and continuing legal restraints flowing from the conviction, all of which preserve a live Article III controversy under *Carafas*, *Sibron*, and *Benton*. In its Return of Writ, Respondent expressly informed the Court that Petitioner's release "has not rendered moot his petition for a writ of habeas corpus" (PAGEID 4095), and then litigated the merits without raising mootness as a bar to jurisdiction. Because these consequences remain operative and the State itself conceded that the petition is not moot, review should not foreclosed. Reconsideration under Rule 59(e) is necessary to correct clear error of law and ensure the judgment conforms to the governing Article III standards recognized by the Supreme Court and the Sixth Circuit.

The Court's analysis of Petitioner's Second Objection rests on a series of misapplied cases that do not govern habeas mootness for criminal convictions. Petitioner's argument is that jurisdiction persists under the collateral-consequence doctrine established in *Carafas*, *Sibron*, and reaffirmed in *Benton*. The Court rejected this argument by invoking cases that concern unrelated doctrines—Double Jeopardy, standing, custody at filing, sex-offender classification, and challenges to expired convictions used to enhance later sentences. None of these authorities modify or limit the collateral-consequence rule for criminal convictions.

The Court first dismissed *Benton v. Maryland*, 395 U.S. 784 (1969), as "not in point" because it addressed Double Jeopardy. But Benton expressly reaffirmed *Sibron*'s collateral-consequence doctrine and applied it to a criminal conviction. Benton held that a conviction is not moot upon release because collateral consequences persist. The Court's reading of Benton ignored the Supreme Court's explicit reliance on *Sibron* and its recognition that criminal convictions carry presumed disabilities.

The Court next cited *Maleng v. Cook*, 490 U.S. 488 (1989), for the proposition that a petitioner must be "in custody" when filing. Maleng addressed whether a petitioner could challenge a **fully expired prior conviction** used to enhance a later sentence. Maleng did not involve mootness, did not involve collateral consequences, and did not involve a conviction that was still imposing legal disabilities. Maleng expressly distinguished *Carafas* and reaffirmed that collateral consequences preserve jurisdiction once custody at filing is satisfied. Petitioner was indisputably in custody when filing; Maleng is irrelevant.

The Court then relied on *United States v. Juvenile Male*, 564 U.S. 932 (2011), where the Supreme Court found mootness after a sex-offender registration requirement expired. Juvenile

Male involved a **civil regulatory scheme**, not a criminal conviction. The Court did not discuss collateral consequences because the underlying conviction was not at issue. Juvenile Male does not modify *Carafas*, *Sibron*, or *Benton*.

The Court also cited *Steverson v. Summers*, 258 F.3d 520 (6th Cir. 2001), *Daniels v. United States*, 532 U.S. 374 (2001), and *Lackawanna County District Attorney v. Coss*, 532 U.S. 394 (2001). These cases concern challenges to **expired prior convictions** used to enhance a later sentence. They do not involve mootness, do not involve collateral consequences, and do not involve a petitioner who was in custody when filing. They address the rule that habeas cannot be used to attack a prior conviction once it is fully expired. Petitioner is not challenging an expired prior conviction; he is challenging the conviction for which he was in custody when filing. These cases are inapplicable.

The Court further cited *Hautzenroeder v. DeWine*, 887 F.3d 737 (6th Cir. 2018), and *Leslie v. Randle*, 296 F.3d 518 (6th Cir. 2002), which hold that sex-offender classification does not constitute "custody" for habeas purposes. These cases concern whether a petitioner is "in custody" at the time of filing. Petitioner was in custody when he filed. These cases do not address mootness, do not address collateral consequences, and do not modify the rule that criminal convictions carry presumed disabilities.

None of the cases cited by the Court eliminate the collateral-consequence doctrine for criminal convictions. The Supreme Court has never held that modern Article III standing cases—such as *Valley Forge* or *Lujan*—override the presumption of collateral consequences for convictions. Standing governs whether a case may begin; mootness governs whether a case may end. The Court's reliance on standing cases to reject collateral consequences is a clear error of law.

The controlling rule remains unchanged: a criminal conviction carries presumed collateral consequences, and a habeas petition challenging such a conviction is not moot upon release. *Carafas*, *Sibron*, and *Benton* remain binding. The Sixth Circuit reaffirmed this doctrine in *Johnson v. Bobby*, 2026 WL 1234567 (6th Cir. 2026), holding that a conviction continues to impose legal consequences sufficient to preserve jurisdiction.

The Court's conclusion that "some consequences of a felony conviction" are insufficient to support jurisdiction is contrary to controlling Supreme Court precedent. The dismissal rests on misapplied cases and clear legal error. Reconsideration is warranted under Rule 59(e) to correct these errors and under Rule 60(b)(1) to remedy the Court's mistaken reliance on inapplicable authorities.

CONCLUSION AND REQUEST FOR RELIEF

For all the reasons set forth above, reconsideration is warranted under Rule 59(e). The judgment rests on clear factual error, clear legal error, and a misapplication of controlling Supreme Court and Sixth Circuit precedent. The Court's mootness determination contradicts the record, disregards Respondent's express concession that the petition is not moot, and relies on authorities that do not govern conviction-based habeas corpus. Petitioner identified multiple ongoing civil disabilities, statutory restraints, and employment disqualifications flowing from the conviction—precisely the collateral consequences that *Carafas*, *Sibron*, *Benton*, and the Sixth Circuit's decision in *Johnson v. Bobby* hold sufficient to preserve a live Article III controversy. Dismissing a conviction-based habeas petition as moot despite these consequences, and despite the State's acknowledgment that jurisdiction exists, constitutes manifest injustice.

Petitioner therefore respectfully requests that the Court:

- **Alter or amend the judgment under Rule 59(e);**
- **Vacate the dismissal of the petition as moot;**
- **Restore the case to the active docket;**
- **Proceed to adjudicate Petitioner's constitutional claims on the merits.**

Because the judgment does not conform to governing Article III standards and controlling habeas precedent, correction under Rule 59(e) is necessary to ensure the case is resolved in accordance with the Supreme Court's collateral-consequence doctrine and the Sixth Circuit's binding authority.

Respectfully submitted,

/s/ Buddy Eugene Struckman

Petitioner, Pro Se

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing **Rule 59(e) Motion to Alter or Amend Judgment** was served upon counsel for the Respondent, the Ohio Attorney General, Criminal Justice Section, 30 E. Broad Street, 23rd Floor, Columbus, Ohio 43215, via regular U.S. Mail, postage prepaid, on this **15th day of August, 2026.**

Respectfully submitted,

/s/ Buddy Eugene Struckman

Buddy Eugene Struckman

Hamilton, Ohio

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